

**Town of Union Planning Board Minutes**  
Tuesday, May 17, 2022

The Town of Union Planning Board held a regular meeting on Tuesday, May 17, 2022, at the Town of Union Office Building, 3111 East Main Street, Endwell, New York.

Members present: L. Miller, D. Kudgus, S. McLain, T. Crowley, S. Forster, K. Rose, C. Curtin (Alternate)

Members absent: M. Jaros

Others present: Marina Lane, Rick Materese, Nick Schupp, Barbara Stanko, Matthew Leach

**A. CALL TO ORDER**

Chairman Miller called the meeting to order at 7:00 p.m.

**B. MEETING MINUTES**

1. **Acceptance of April 10, 2022 Meeting Minutes:** Postponed
2. **Acceptance of May 10, 2022 Meeting Minutes:** Postponed

**C. 525 Boswell Hill Road, Renua Energy Solar Farm Project, Nick Schupp, Matthew Leach**

**1. Public Hearing for a Special Use Permit for a Large-Scale Solar Project, Decision**

The Public Hearing opened at 7:01 p.m. and closed at 7:03 p.m. There were no questions asked at the public hearing.

Mr. Schupp gave a short presentation about changes made to the site plan since the last meeting. Renua Energy had reached out to the property owners adjacent to the project and per their request, have added additional screening to the landscaping plan to minimize the visual impact for those adjacent property owners. There will be a seven-foot high chain link fence with green slats to help minimize the visual impact at the front of the project. A seven-foot high farm style fence will surround the remainder of the solar arrays. Mr. Schupp added that any required repairs of Boswell Hill Road will be discussed with the Highway Department once construction is completed.

Ms. Lane questioned the choice of green slats for the fence. She referenced the GlidePath battery project. GlidePath had submitted a visual presentation of what their fence would look like with either gray or green slats. The Planning Board at that time chose the gray slats because they would blend in better with the environment. Ms. Lane was concerned that green slats at this solar farm would be starkly different from what is already there. Mr. Leach responded that gray slats would blend in better in the wintertime, but the green slats would blend in better in the summertime.

Mr. Leach confirmed that the staging area in front of the enclosed site has gray crushed gravel. This is the location of the access road into the site. Ms. Lane was concerned that the gravel could affect the wetland in the upper northeast corner of the property. Mr. Schupp confirmed that the gravel is outside of that wetland area. Mr. Leach explained that they plan to plant Black Gum and White spruce trees in front of the slatted fence. Ms. Lane asked that the spruce trees be planted far enough apart so that they are not shedding all of their lower branches, which would be providing the screening.

Mr. Schupp then described how the decommissioning plan for the site would work. The developer would remove all posts and racking from the area. Whatever can be recycled will be recycled or resold. They will break up and remove the two concrete pads. They will remove the access road and the wiring that goes to the transformers. The stormwater ponds will be filled.

They will not use pesticides on the site during the lifecycle of the project. They use a meadow mix which grows about two or three feet high. The grass will be mowed two to three times a year. Mr. Leach added that the meadow mix also helps to replenish the soil because of the pollinator plants in the mix. The decommissioning plan seeks to return the site back to its original state as farmland.

Mr. Schupp explained that they would recycle most of the metals inside of the panels because many of those are precious metals. The rest of the solar panel components will be shipped to various facilities where they will be disposed of properly. The resale market for the used solar panels is good because they still operate at 80 percent efficiency at the end of a 25-year project lifecycle. Mr. Leach added that many people are interested in the panels because they are still much better than what you can buy off the shelf. Ms. Lane cited a 2016 study by the International Renewable Energy Agency that estimated that recyclable materials in old solar modules would be worth \$15 billion dollars in recoverable assets by the year 2050. Mr. Materese added that there is a huge resale market to third world countries because they are more affordable.

Ms. Lane then presented her staff report to the Planning Board. Nicholas Schupp of Renua Energy submitted an application to install a 5-MW a.c. community solar facility at 525 Boswell Hill Road. The 30.073-acre property is located in a Rural Residential zoning district and the 5-MW solar facility, a renewable energy use, is permitted by Special Use Permit from the Planning Board.

Renua Energy, on behalf of RESunance, LLC, plans to construct ground-mounted, fixed-tilt arrays to provide discounted electricity to local homes and businesses. The enclosed area of the arrays will cover approximately 14.5-acres of the property, with much of the remainder of the property being Army Corps jurisdictional wetlands and the staging area for the project.

Per Chapter 161 of the Town Code, special use permit applications for large-scale solar projects must include a copy of legal consent between the current property owner and developer. Ovan Capital, LLC intends to purchase the

property. The site plan has been reviewed, revised, and a final version is ready, with setback area variances approved by the Zoning Board on May 16, 2022.

Renua Energy provided equipment specification sheets as required. The property operation and maintenance plan indicates that a maintenance contractor shall inspect the property twice a year. Planning staff propose that three site visits per year, early spring, middle of summer, and late fall, would be more appropriate. These include inspections of the perimeter fence, solar array, and connecting infrastructure, with repairs as needed. The project owner shall be responsible for repairs of the access road and culverts, in addition to plowing and maintaining access for emergency vehicles as needed. The site will be mowed 2-3 times per year under and around the solar array.

The decommissioning plan outlines the following major steps: dismantlement and demolition, disposal or recycle, and site stabilization. A significant portion of the components will include recyclable or re-saleable materials. The disconnection from the utility distribution grid shall be coordinated with NYSEG. The photovoltaic (PV) system shall be removed from any depth of four feet or less. Grade slabs will be broken and removed to a depth below grade as required by the NYS Energy Research and Development Authority (NYSERDA) at the time of decommissioning, the gravel access road shall be removed, and above-ground utility poles shall be completely removed. Any area of the site disturbed during the decommissioning shall be regraded to establish a uniform slope, and stabilized via hydroseeding. The decommissioning surety plan provides a demolition bond in the event the property owner fails to follow through with the decommissioning.

Under the requirements of Section 617.7(c), the proposed action was determined to be a Type I Action, and the Planning Board made a Negative Declaration determination on April 12, 2022 after review of the full EAF, per SEQRA. The conclusion was that the proposed action would not result in significant adverse effects to the environment. Screening trees will mitigate potential visual impacts from the 9-ft high structures. Increased traffic during construction would be temporary, and once constructed, the project would result in one vehicle trip every few months. The proposed project will support renewable energy use, and reduce the grid's dependence on non-renewable energy sources that negatively affect the environment.

A Stormwater Pollution Prevention Plan was submitted and reviewed by a Town-designated engineer. The property is subject to a 239-Review due to the proximity of NYS Ag and Markets participating farms. Broome County Planning made a number of recommendations that are required by Town Code and have either been provided, or did not apply. The NYS DOT had no specific comments other than that special hauling permits would be required if there are any loads over the legal size.

The Planning Department recommends approval of the Special Use Permit to install a five (5) MW a.c. community solar facility at 525 Boswell Hill Road. Per

§ 161.6 A.5, special use permit conditions shall apply to all special use permits issued for large-scale solar energy systems. No special use permit shall be issued unless the Planning Board finds that the following conditions have been or will be met:

1 Per § 161.6 A.5(a) Decommissioning plan. All applications for large-scale solar energy systems shall be accompanied by a decommissioning plan to be implemented upon abandonment and/or in conjunction with removal of the system. The decommissioning plan shall address those items listed in this section and shall include:

[1] An estimate of the anticipated operational life of the system;

[2] Identification of the party(ies) responsible for decommissioning;

[3] A copy or description of any agreement with the landowner regarding decommissioning;

[4] A schedule showing the timeframe over which decommissioning will occur and for completion of site restoration work;

[5] A cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the large-scale solar energy system;

[6] A financial plan to ensure that financial resources will be available to fully decommission the site.

2 Per § 161.6 A.5(b) All responsible parties shall enter into a decommissioning agreement with the Town reflecting the decommissioning plan agreed to by the parties and the time frame for completion.

3 Per § 161.6 A.5(c) Financial plan. The party(ies) responsible for decommissioning must provide a letter of credit or financial surety in an amount sufficient to fully cover the cost of decommissioning and implement the decommissioning plan. Prior to the issuance of a building permit and every three years thereafter, the large-scale solar energy system owner and/or landowner shall file with the Town a renewed letter of credit or financial surety to provide for the full cost of decommissioning and removal of the solar collector system in the event the system is not removed by the system owner and/or landowner. Letters of credit or financial surety shall remain in effect throughout the life of the system and shall be in the form acceptable to the Planning Board and the Town Attorney. In the event ownership of the system is transferred to another party, the new owner (transferee) shall file a letter of credit or financial surety with the Town at the time of transfer, and every three years thereafter, as provided herein. The amount of the letter of credit or financial surety shall be determined by the applicant's engineer based upon a current estimate of decommissioning and removal costs as provided in the decommissioning plan and subsequent annual reports. The amount of the letter of credit or

financial surety may be adjusted by the Town upon receipt of an annual report containing an updated cost estimate for decommissioning and removal.

4 Per § 161.6 A.5(d) Report. Upon request of the Town, the owner of the large-scale solar energy system shall provide the Town Code Enforcement Officer a report showing the rated capacity of the system, and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve-month period. The report shall be submitted no later than 45 days after a written request. Failure to submit a report as required herein shall be considered a violation subject to the penalties and remedies set forth in this chapter and the Town Code.

5 Per § 161.6 A.5(e) Transfer of ownership. Any special permit issued and all restrictions or obligations under such permit shall transfer in full force and effect to any new owner of the land and/or owner or operator of the large-scale solar collector system.

6 Special permit modification approval shall be required if there are any changes to the site plan or change of use on the property, per § 300-66.10.

7 The Special Permit shall expire should the property or business be sold to another entity, per § 300-66.11. Transferability:

- a. A special permit is not transferable except upon approval by resolution of the issuing board.
- b. A special permit shall authorize only one special use and shall expire if the special use ceases for more than three months for any reason.

8 The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of a building permit. The applicant shall agree to follow stipulations of approval in strict accordance with the special use permit approved by the Planning Board.

Ms. Lane said that she will work with the town attorneys to review the decommissioning plan. Once the plan has been finalized, it will go to the Town Board to accept it, and then it is filed with the county and the town.

Chairman Miller asked for a motion to approve the Special Use Permit for a Large-Scale Solar Energy System at 525 Boswell Hill Road, with stipulations.

Motion Made: T. Crowley

Motion Seconded: D. Kudgus

MOTION: Approval of the Special Use Permit for a Large-Scale Solar Energy System at 525 Boswell Hill Road, with stipulations.

VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, T. Crowley, S. Forster, K. Rose

**Opposed:** None

**Abstained:** None

Motion Carried

Ms. Miller then appointed Colleen Curtin to take the place of Mark Jaros who was absent. Ms. Lane noted that whenever there is an absence, Ms. Curtin should be appointed because it makes it a stronger vote.

**2. Pending approval of the Special Use Permit, Site Plan Review**

Ms. Lane then presented her Site Plan Review staff report. The property slopes upward from the west side of Boswell Hill Road, peaks approximately 780-feet to the west, and then slopes downhill, away from any homes or traffic. The property is largely vacant fields with a scattering of trees along the south and north perimeters, and woods to the west. The solar-array panels would be facing south, away from traffic on the road.

The gravel driveway access will start from the existing path on the parcel. This road will give access to the equipment pad. The solar array is approximately 14.5 acres surrounded by a 7-foot farm style fence, other than along Boswell Hill Road. The front of the fence will be 7-foot tall chain-link fence with slats to screen the 9 to 9.5-foot high panels. Renua Energy proposes landscaping trees for additional screening purposes to fit in with the rural nature of the surroundings, specifically black gum and white spruce trees. The trees will be planted at about seven-feet in height, and they grow one to two-feet per year.

The Army Corps of Engineers has issued the preliminary letter of jurisdiction confirming the presence of 5.62-acres of wetlands, and Renua Energy's design will avoid any disturbance to the wetlands. The stormwater pollution prevention plan (SWPPP) includes the addition of three storm water basins to the site. The storm water basins will act to protect and maintain the wetlands by releasing stormwater at the existing rate of flow into the wetlands.

The US Fish and Wildlife Service found no rare, protected or endangered animals or plants. In addition, the land beneath the panels would be seeded with a pollinator-friendly seed mix, which will also help restore and preserve farmland. The seed mixture includes a significant percentage of grasses, which in addition to providing a rich habitat for small animals and birds, further sequesters carbon into the soil

The solar energy distribution system will connect to the grid and NYSEG has completed the requisite analysis and permitted the system interconnection via the North Endicott substation.

The facility does not require water or sanitary sewer utilities, and once constructed, will generate only 3-5 vehicle trips per year.

Ms. Lane noted that Renua Energy had submitted the SWPPP and Delta Engineering is reviewing it. Mr. Schupp said they had received comments from Delta Engineering and they are working through them.

The Planning Department recommends approval of the Site Plan for a five (5) MW a.c. community solar facility at 525 Boswell Hill Road, with the following stipulations:

1. The stormwater plan, SWPPP, shall be finalized prior to the issuance of any building permit. The contractor shall utilize erosion control and stormwater runoff preventative measures during construction, per the approved SWPPP.
  2. The Town Department of Public Works and attorney shall review and approve the stormwater management system maintenance agreement and access easement and description. Subsequently, the maintenance agreement and access easement shall be filed with Broome County, and a copy of the filing receipt shall be submitted to the Town Planning Department prior to the issuance of a building permit.
  3. The maintenance of the stormwater management system, including but not limited to swales, retaining walls and the bioretention basin, shall be the responsibility of the property owner. Should the project be decommissioned, maintenance of the stormwater management system shall continue to be the responsibility of the property owner until such time that the site has been restored to pre-construction conditions, as confirmed by the Code Enforcement Official.
  4. A preconstruction meeting shall be held with the developer, contractor and Code Enforcement Officer prior to any land disturbance commencing.
  5. Dust and mud control shall be maintained throughout the construction period, including along Boswell Hill Road.
  6. Prior to the issuance of the SWPPP Notice of Termination, one AutoCAD version 2021 and one PDF version of the as-built drawings must be submitted to the Engineering and Planning Departments. The as-built shall include the stormwater control system.
  7. The Town of Union Department of Public Works requires the developer apply for a permit from the Highway Department for the installation of the access drive on Boswell Hill Road. The developer will be responsible for the repair of Boswell Hill Road to the satisfaction of the Town Superintendent of Highway as a result of any road work necessary to the project.
- Ms. Lane noted that this seventh stipulation would require the town document the pre-existing condition of the road as proof of whether any damage was caused. This stipulation may be removed later on.
8. Per § 161.6 A(4)(a)5, the Planning Board shall determine the type and size of the fence. The 7-foot chain-link fence shall be enhanced with gray screening to blend into the fields. The fencing shall be maintained in an attractive manner at all times, with support structures facing the interior of the fenced-in area.

The maximum height of a fence in Rural Residential zoning is 6-feet. However, because of the National Electric Code, the fence has to be 7-feet high. Ms. Lane explained that the Planning Board has the flexibility, per the renewable energy code, to allow a higher fence. She added that she proposed gray slats in her recommendations, but she is leaving that up to the Planning Board. Ms. Lane then asked Mr. Schupp how long it would be before the fence is actually built. Mr. Schupp estimated that construction could start in the fall; however, it is more likely to start next spring. He noted that the fence would be one of the last items constructed for the project. He will work on getting a concrete timeline for the construction of the project. Mr. Leach described the farm fence as White pine poles supporting welded wire fencing, and the fence would be six inches off the ground.

9. The landscaping plan shall be installed by October 30 of the year in which the facility becomes operational. An extension of this deadline may be approved by the Planning Board.

10. The landscaping shall be maintained according to the landscaping plan, and any dead or dying plants shall be replaced with similar plants within one month, weather permitting. Failure to maintain such landscaping or to replace dead or diseased landscaping required by this chapter shall constitute a violation of these regulations 300-54.2.

11 Per § 161.6 A(4)(a)8, a safety sign shall be attached to the fence at the main gate of any ground-mounted or freestanding large-scale solar energy system that contains a warning about high voltage and the Broome County Emergency Services telephone number. Any sign for a large-scale solar energy system classified as a principal use shall adhere to the sign requirements for the zoning district in which it is located. A solar energy system shall not be used to display permanent or temporary advertising, including signage, streamers, pennants, spinners, reflectors, banners or similar materials.

12. Site plan approval shall expire after five years unless substantial improvements have been made pursuant to the approved site plan and a valid building permit.

Ms. Lane added the following sentence to the stipulation: "Upon request, an extension to the deadline can be requested from the Planning Board." The Planning Board members discussed the five-year deadline for the site plan. They agreed that the five-year timeline should remain a stipulation due to potential delays for the materials needed to construct the project.

13. The applicant shall be required to acknowledge all of the above conditions, in writing, no later than May 31, 2022. The applicant agrees to construct the project in strict accordance with the site plan approved by the Planning Board. Changes to the site plan following approval may require a minor site plan review or resubmittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.



Chairman Miller asked for a motion to approve the Site Plan Review with minor changes as noted, for the Large-Scale Solar Project at 525 Boswell Hill Road, with stipulations.

Motion Made: K. Rose  
Motion Seconded: S. McLain  
MOTION: Approval of the Site Plan with minor changes as noted for the Large-Scale Solar Project at 525 Boswell Hill Road, with stipulations.  
VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, T. Crowley, S. Forster, K. Rose, C. Curtin  
**Opposed:** None  
**Abstained:** None  
Motion Carried

#### D. Other Such Matters as May Properly Come Before the Board

Ms. Lane discussed three projects that she recently received in the Planning Department. The first was from Mr. Taylor of Taylor's Pizza. Mr. Taylor would like to change the location of his garbage cans on the approved site plan. Ms. Lane said that she can do this as a minor site plan review but she wanted to know if the Planning Board is agreeable. The Planning Board was fine with the change as a minor site plan review.

Mr. Bob Kashou, owner of the former Sports Dome, is applying for a new parking plan for the new building. The footprint for the reconstructed sports building will be smaller than the original and Mr. Kashou will add parking in the footprint of the former building. The new building will have greater capacity because it will be sprinklered. The increase in parking requires a regular site plan review by the Planning Board. The Planning Board members agreed that the project should be handled as a regular Site Plan Review.

The Brickyard restaurant had been granted temporary approval to have outdoor seats and tables on the sidewalk in front of the building during COVID. Now they would like to keep the outdoor seating area as a permanent change to the restaurant. The increase in seating increases the number of parking spaces required by the business, and the Planning Board agreed that the plaza, 800 Hooper Road, has plenty of available parking. Ms. Lane said that they would not increase the number of tables that are there now. They would maintain a path for a wheelchair to fit through the outdoor dining area. The Planning Board agreed that Ms. Lane could handle this project as a Minor Site Plan Review.

#### E. Adjournment

Chairman Miller asked for a motion to adjourn the meeting at 7:56 p.m.

Motion Made: C. Curtin  
Motion Seconded: K. Rose  
MOTION: Adjourning the meeting.  
VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain,  
T. Crowley, S. Forster, K. Rose  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**Next Meeting Date**

The next meeting of the Planning Board is tentatively scheduled for Tuesday, June 14, 2022, at 7:00 p.m.

Respectfully Submitted,  
Carol Krawczyk